IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

THE HON'BLE MR JUSTICE V.V.S.RAO

PRESENT

-

WRIT PETITION NO:1314 of 2005

Between:

Malleboina Srinivasulu, s/o Subbaiah, Physically Handicapped, R/o Nelaturi Gollapalli, Kanigiri Mandal, Prakasam District.

..... PETITIONER

AND

1 The District Collector, Prakasam District, Prakasam Bhavan, Ongole,
2 The Joint Collector, Prakasam District, Prakasam Bhavan, Ongole.
3 The Revenue Divisional Officer, Kandukuru, Prakasam District.
4 The Mandal Revenue Officer, Kanigiri, Prakasam District.
5 P.Malakondaiah, s/o Ramaiah,
R/o Nelaturi Gollapalli, Kanigiri Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction, more particularly a writ in the nature of certiorari and call for the records from the Joint Collector and set aside the order passed by the Joint Collector in D.Dis.(Cs2)/3511/99, on 8-10-2004 and to appoint the petitioner as Fair Price Shop Dealer of Nelaturi Gollapalli Village.

Counsel for the Petitioner: MR.M.BALASUBRAHMANYAM

Counsel for the Respondent Nos.1 to 4: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.5: MR.M.SUBBA REDDY

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.1314 OF 2005

ORDER:

The fifth respondent was a permanent dealer of fair price shop at Nelaturi Gollapalli village, Kanigiri Mandal, Prakasam District. The appointing authority, the third respondent herein, by order dated 14.04.1999 cancelled the authorization of the fifth respondent on the ground that he was convicted for an offence under Section 302 of Indian Penal Code, 1860 (IPC). In view of the vacancy, the petitioner herein was appointed as a temporary dealer by proceedings dated 26.04.1999 and later the dealership was renewed. Be that as it is, the fifth respondent appears to have filed an appeal against the conviction before this Court. This Court while confirming the said conviction modified the sentence of life imprisonment to one year besides a fine of Rs.5,000/-. The fifth respondent served the sentence and then moved an appeal before the Joint Collector, the second respondent herein. He *inter alia* contended that in view of the orders of the High Court reducing the sentence of life imprisonment and in view of the fact that he served the sentence, he is entitled for restoration of the authorization. By impugned order dated 08.10.2004, the second respondent set aside the proceedings of the third respondent dated 14.04.1999. Aggrieved by the same, the present writ petition is filed.

This Court while admitting the writ petition on 01.02.2005, passed the following impugned order in W.P.M.P.No.1728 of 2005.

> *Prima facie*, it is evident that the conviction of the fifth respondent in an offence under Section 302 IPC became final. Though the sentence was reduced, in view of Clause 3(5) of A.P.Public Distribution System (Control) Order, 2001 (for short, the Control Order), the authorization was liable to be cancelled.
>
> In that view of the matter, there shall be interim suspension as prayed for.

Though the fifth respondent has now moved W.V.M.P.No.583 of 2005 for vacating the interim order, the matter was heard finally at this stage and is being disposed of finally.

It is brought out in the counter affidavit filed by the fifth respondent that against the impugned order, the petitioner herein filed a revision petition in January, 2005, before the first respondent, who refused to grant stay and that the petitioner

approached this Court without disclosing the same and therefore the writ petition is liable to be dismissed *in limine*. The learned counsel for the petitioner does not dispute that the revision petition is filed against the impugned order. It is also not disputed that the revision petition is still pending and therefore it would not be proper for this Court to pass any orders. However, there is some dispute as to who is continuing as fair price shop dealer though certainly it is not the fifth respondent whose authorization was cancelled in September, 1999, pursuant to his conviction in a murder case. Therefore, while ordering *status quo* as on today, the writ petition is disposed of directing the first respondent to dispose of the revision petition filed by the petitioner keeping in view Clause 5 of the Control Order as well as para 5 of Annexure 1 to the said Control Order. This exercise may be completed immediately, but not later than the period of four weeks from the date of receipt of this order.

The writ petition is accordingly disposed of without any order as to costs.

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(V.V.S.RAO,J)

15.06.2005

pln

Note: Issue certified copy by Monday

i.e.20.06.2005.

By Order

Pln

To

1 The District Collector, Prakasam District, Prakasam Bhavan, Ongole,
2 The Joint Collector, Prakasam District, Prakasam Bhavan, Ongole.
3 The Revenue Divisional Officer, Kandukuru, Prakasam District.
4 The Mandal Revenue Officer, Kanigiri, Prakasam District.

5 Two CCs to Government Pleader for Civil Supplies, High Court

Buildings, Hyderabad (OUT).

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